

POLICIES AND PROCEDURES REGARDING ALLEGATIONS/INVESTIGATIONS

There have been numerous questions from the field concerning the procedure as well as the manner in which investigation are handled by the Board of Examiners for Alcohol and Drug Abuse Counselors. The Board takes each and every allegation seriously and attempts to handle each in a professional and confidential manner.

The Board's mission and role includes protecting the public from possible unethical behavior by counselors licensed or certified by the Board. At the same time, the Board is committed to treating all allegations fairly and insuring that counselors are protected from unfair or unfounded allegations.

With that background in mind, the Board of Examiners for Alcohol and Drug Abuse Counselors endeavors to treat each allegation made against a counselor in a manner that insures the rights of both parties. Each investigation into an allegation is carried out in the spirit of justice coupled with fairness and respect for all parties involved.

The Board and staff wish to share with you the normal steps that are taken when an allegation is received:

1. The allegation is received in writing by Board staff.

If a person wishes to make an allegation about a counselor licensed or certified by the Board, he/she must make that allegation in writing on a form provided by the Board. This form should be completed in its entirety and submitted to the Board staff.

2. Board staff reviews allegation.

Once the allegation is received, Board staff shall review the allegation.

3. Mail a letter to complaining party acknowledging receipt of the allegation.

Once the allegation is reviewed, a certified letter is sent to the counselor against whom the allegation is made. The letter specifies that an allegation has been made and which of the regulations (Nevada Administrative Code) may have been violated if the allegation is true. The letter instructs the counselor to respond to the allegation in writing within 15 calendar days to the Board staff. The name of the complainant is not given at this point to the counselor against whom the allegation has been made.

4. Allegation and response is profiled at the next Board meeting to determine if the allegation needs to be investigated.

Once the counselor's response is received, the allegation, without names or identifying information is brought to the next regularly scheduled Board of

Examiners meeting. The facts of the allegation and the counselor's response are read into the record and the Board votes on whether to pursue the allegation or not. If it is decided to pursue, that means the Board will authorize an investigation to proceed on the matter.

If the Board votes not to pursue the allegation, the matter is considered closed in terms of the Board's involvement. Any other recommended action will be carried out by the Board staff. A common example of a situation that the Board would not pursue involves an allegation regarding a treatment program alleged to have mistreated a client. Since treatment provider issues are not under the purview of the Board, this type of situation would not normally be pursued.

5. If Board votes to pursue, the allegation is investigated.

Once the Board pursues an investigation, the Board staff, with the advice of Board legal counsel, chooses an investigator. Normally the investigator is a Board member who has no connection professionally or personally with the alleged situation or with the accused counselor. In addition, the Board may choose an outside person to perform an investigation.

6. The case is then assigned to the investigator.

Once an investigator is found, the case file is sent to the investigator and that person becomes the person officially assigned to investigate the case.

7. The investigation is performed.

Once assigned, the investigator performs the actual investigation. The investigation shall include, at the minimum, the following components:

- Interviews with the counselor against whom the allegation is made, as well as with the person making the allegation.
- Interviews with any collateral witnesses such as other counselors, clients, etc.
- A formal written report that includes a summary of the complaint, a summary of the interviews performed, findings of the investigation, and recommendations for action. These recommendations may include no action, limited action, or full action that could impact the person's license or certificate.

8. Review investigator's findings and recommendations.

The Board staff receives the investigator's report and forwards a copy to the Board's legal counsel for review. The Board's legal counsel is a Deputy Attorney General assigned to the Board by the State of Nevada's Attorney Generals office.

9. Review information with the Board's Deputy Attorney General.

The Board staff and the Board legal counsel review the investigative report and develop a course of action to bring to the Board for approval. The options for course of action include the following:

- Dismissal for lack of evidence or allegations cannot be proved.
- A *Consent Decree* in which the counselor is offered a remedial course of action that can include a fine and recommendations for correction. If the counselor agrees to the *Consent Decree*, the document will be signed by the counselor and approved at the next Board of Examiners meeting. Once it is approved, the counselor will be notified and the decree is formalized.
- A full disciplinary hearing in which the counselor shall be required to appear before the Board to testify and to answer questions from the Board. This is like a court hearing with the Board serving the judiciary function.

10. Mail a copy of the Boards decision to the complaining party.

Once the allegation is finalized, whether dismissed or not, a final decision is mailed to the complaining party. The information provided in this document contains only the outcome and no other information.

While an investigation is in progress Board members or staff will not confirm or deny if an allegation or complaint has been received. This is to protect the privacy of all parties and to insure the integrity of the process. The Board views each allegation and investigation as "innocent until proven guilty." Any other view would violate the principles of fairness and respect that the Board endeavors to hold up in its operations. In addition, the Board views confidentiality as a cornerstone of the investigative effort.

Finally, the investigative stage is more extensive than many realize, including the initial screening by the Executive Director, possible screening by a single board member or the full board, actual investigation by a designated investigator, review of the investigator's report, review by the Board's legal counsel, and possible return for further investigation.

In conclusion, the Board understands that the complaining party wants the complaint handled quickly, but in most cases this not feasible and it is useful ***to explain to the inquiring party that, as frustrating as it might be, they only hurt their case by insisting that "something be done, and quickly"***. It takes good evidence to win cases, and a hurried investigation frequently means that only poor or mediocre evidence is gathered.

For more information or if you have questions, contact Sharon Atkinson at the Board of Examiners for Alcohol and Drug Abuse; 401 Dayton Valley Rd., Dayton, NV 89403 or 775-246-2260.